

1                                   **UNITED STATES DISTRICT COURT**  
2                                   **DISTRICT OF NEVADA**

3 MARK EDWARD DAVIS, LLC and  
4 DREAM CONNECTIONS  
INTERNATIONAL, INC.,

5                   Plaintiffs

6 v.

7 ENGAGE ENTERPRISES, LLC and OLEG  
8 VYDRA,

9                   Defendants

Case No.: 2:17-cv-01876-JAD-VCF

**Order Denying Motion for  
Default Judgment**

[ECF No. 21]

10           Mark Edwards Davis, LLC and Dream Connections International Inc. sue Oleg Vydra  
11 and Engage Enterprises, LLC<sup>1</sup> for breach of contract and trademark and copyright infringement.  
12 I granted a preliminary injunction in this case, restraining the defendants from using the  
13 plaintiffs' trademarks and copyrighted materials.<sup>2</sup> Despite being served with summonses and  
14 copies of the complaint, neither defendant had responded to the complaint or otherwise appeared  
15 in this case. The Clerk of Court entered a default against the defendants under FRCP 55 on  
16 September 20, 2017.<sup>3</sup>

17           Plaintiffs now move for default judgment and seek a permanent injunction, statutory  
18 damages, and attorney's fees and costs. When determining whether default judgment is  
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20 <sup>1</sup> Plaintiffs sued the plural "Engage Enterprises, LLC" ECF No. 1 at ¶2, but have recently  
21 referred to this defendant as the singular "Engage Enterprise, LLC." ECF No. 19 at 1. The court  
22 is unsure if this is a typographical error or if the plaintiffs named the wrong party and, rather than  
formally correct their mistake with a motion to substitute, are simply using what might be the  
correct entity name in their briefs.

23 <sup>2</sup> ECF No. 15.

<sup>3</sup> ECF No. 20.

1 available, the court must evaluate the seven factors outlined by the Ninth Circuit in *Eitel v.*  
2 *McCool*: (1) the potential prejudice to the plaintiff, (2) the merits of plaintiff's substantive claim,  
3 (3) the sufficiency of the complaint, (4) the amount of money at stake in the action, (5) the  
4 potential disputes over material facts, (6) whether the default was due to excusable neglect, and  
5 (7) the strong federal policy favoring adjudications based on the merits.<sup>4</sup> Here, the plaintiffs  
6 have not addressed these factors at all, let alone demonstrated why they favor default judgment  
7 in this case. Accordingly, IT IS HEREBY ORDERED that the plaintiffs' motion for default  
8 judgment [ECF No. 21] is **DENIED without prejudice** to their ability to reurge this request  
9 with a motion that properly evaluates the *Eitel* factors.

10 Dated: September 18, 2018

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U.S. District Judge Jennifer A. Dorsey

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<sup>4</sup> *Eitel v. McCool*, 782 F.2d 1470, 1471–72 (9th Cir. 1986).